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FRANK C. NICHOLAS (33 983)
Name of Appellant, assignee or registered representative

Signature
September 21, 2005
Date of Signature

PATENT
Case No. GP-301992
(2760/45)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re patent application of:)

WILLIAM E. MAZZARA, JR., et al.)

Serial No.: 10/057,855)

Filed: JANUARY 23, 2002)

For: METHOD OF TELEMATICS)
UNIT CONFIGURATION AND)
ACTIVATION USING VEHICLE)
CONTROL BUTTONS)

Examiner: PHAN, HUY Q.

Group Art Unit: 2685

APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Appellant herewith respectfully presents a Brief on Appeal as follows:

September 21, 2005
Case No. GP-301992 (2760/45)
Serial No.: 10/057,855
Filed: January 23, 2002
Page 2 of 25

TABLE OF CONTENTS

	<u>Page</u>
1. REAL PARTY IN INTEREST.....	3
2. RELATED APPEALS AND INTERFERENCES.....	4
3. STATUS OF CLAIMS.....	5
4. STATUS OF AMENDMENTS.....	6
5. SUMMARY OF CLAIMED INVENTION.....	7
6. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL.....	9
7. ARGUMENT.....	10
8. CLAIMS APPENDIX.....	20
9. EVIDENCE APPENDIX.....	25
10. RELATED PROCEEDINGS APPENDIX.....	25

September 21, 2005
Case No. GP-301992 (2760/45)
Serial No.: 10/057,855
Filed: January 23, 2002
Page 3 of 25

1. REAL PARTY IN INTEREST

The real party in interest is the assignee of record [FILL IN]

September 21, 2005
Case No. GP-301992 (2760/45)
Serial No.: 10/057,855
Filed: January 23, 2002
Page 4 of 25

2. RELATED APPEALS AND INTERFERENCES

Appellant and the undersigned attorney are not aware of any other appeals or interferences which will directly affect or be directly affected by or having a bearing on the Board's decision in the pending appeal.

September 21, 2005
Case No. GP-301992 (2760/45)
Serial No.: 10/057,855
Filed: January 23, 2002
Page 5 of 25

3. STATUS OF CLAIMS

Claims 1-20 are currently pending in the present application, and are the claims on appeal. See, Claims Appendix.

September 21, 2005
Case No. GP-301992 (2760/45)
Serial No.: 10/057,855
Filed: January 23, 2002
Page 6 of 25

4. STATUS OF AMENDMENTS

Appellant filed an after final request for reconsideration under 37 C.F.R. §1.116 in response to a Final Office Action dated February 18, 2005. The after final request for reconsideration did not include any amendments to claims 1-20.

September 21, 2005
Case No. GP-301992 (2760/45)
Serial No.: 10/057,855
Filed: January 23, 2002
Page 7 of 25

5. SUMMARY OF THE INVENTION

The present application teaches a telematics unit operational method to configure and activate a telematics unit system in a mobile vehicle. In one embodiment of a telematics unit operational method 200 as shown in FIG. 2 of the present application, radio buttons 124, 131, 132, 133, 134, 135, 136, 138, 139 of audio player and radio receiver unit 120 shown in FIG. 1 of the present application are used alone or in various combinations or sequences to send signals to request the activation of telematics unit 115 as shown in FIG. 1 of the present application. *See, U.S. Patent Application Serial No. 10/057,855 at page 9, lines 22-27.*

Specifically, block 205 of method 200 teaches telematics unit 115 activating in a cellular programming mode in response to a command signal from standard audio player and radio receiver unit 120 via selective activations of one or more predetermined radio buttons 124, 131, 132, 133, 134, 135, 136, 138, 139 (e.g., eject radio button 124 is depressed for ten seconds). *See, U.S. Patent Application Serial No. 10/057,855 at page 10, line 23 to page 11, line 8.*

September 21, 2005
Case No. GP-301992 (2760/45)
Serial No.: 10/057,855
Filed: January 23, 2002
Page 8 of 25

Block 210 of method 200 teaches telematics unit 115 sending a request to audio player and radio receiver unit 120 to confirm that telematics unit 115 should be in the cellular programming mode. In return, audio player and radio receiver unit 120 sends back a confirmation acknowledgement to telematics unit 115 via a selective activation of one or more predetermined radio buttons 124,131, 132, 133, 134, 135, 136, 138, 139.

See, U.S. Patent Application Serial No. 10/057,855 at page 11, lines 9-17.

Blocks 215, 220, 225 and 235 of method 200 teach telematics unit 15 activating an operations mode in response to receiving a mobile identification number from audio player and radio receiver unit 120 via selective activations of one or more predetermined radio buttons 124,131, 132, 133, 134, 135, 136, 138, 139. Tables 1 and 2 provide an exemplary mapping of the radio buttons to various alphanumeric characters. See, U.S. Patent Application Serial No. 10/057,855 at page 12, line 1 to page 14, line 28.

Blocks 240, 245 and 250 of method 200 teaches telematics unit 150 performing an operation selected via one or more selective activations of one or more predetermined radio buttons 124,131, 132, 133, 134, 135, 136, 138, 139. Table 3 provides an exemplary mapping of the radio buttons to various operation modes for telematics unit 15. See, U.S. Patent Application Serial No. 10/057,855 at page 15, line 1 to page 16, line 12.

September 21, 2005
Case No. GP-301992 (2760/45)
Serial No.: 10/057,855
Filed: January 23, 2002
Page 9 of 25

6. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1, 4-6, 11, 12, 14, 17, 18 and 20 stand finally rejected under 35 U.S.C.

§103(a) as being unpatentable over U.S. Patent No. 6,701,161 B1 to *Wendling* in view of U.S. Patent Application Publication No. 2003/0096641 to *Odinak*.

Claims 2, 3 and 13 under 35 U.S.C. §103(a) stand finally rejected as being unpatentable over U.S. Patent No. 6,701,161 B1 to *Wendling* in view of U.S. Patent Application Publication No. 2003/0096641 to *Odinak* and in further view of U.S. Patent No. 6,470,178 to *Cumming-Hill* et al.

Claims 7-9, 16 and 19 under 35 U.S.C. §103(a) stand finally rejected as being unpatentable over U.S. Patent No. 6,701,161 B1 to *Wendling* in view of U.S. Patent Application Publication No. 2003/0096641 to *Odinak* and in further view of U.S. Patent No. 5,537,673 to *Nagashima* et al.

September 21, 2005
Case No. GP-301992 (2760/45)
Serial No.: 10/057,855
Filed: January 23, 2002
Page 10 of 25

7. ARGUMENT

Wendling. As illustrated in FIG. 2, *Wendling* teaches a basic device BS employing an operating section OS latched to a holder whereby a release button RB can be activated to unlatch the operating section OS from the holder. The principle operation of *Wendling* is to provide a user interactive surface F1 of mode activation elements E1-E4 displayed on a touch sensitive screen TS to facilitate a mode selection of operating section OS as either (1) a car telephone via a selective activation of a mode activation element E1, (2) a traffic telematics via a selective activation of a mode activation element E2, (3) a car radio via a selective activation of a mode activation button E3, or (4) a CD player via a selective activation of a mode activation button E4. See, *Wendling* at column 7, line 38 to column 8, line 19.

September 21, 2005
Case No. GP-301992 (2760/45)
Serial No.: 10/057,855
Filed: January 23, 2002
Page 11 of 25

Each of these four (4) modes independently operate relative to the other modes. For example, an activation of activation element E3 as shown in FIG. 1 exclusively switches the operating section OS to a car radio mode as shown in FIG. 3 whereby an interactive user surface F2 of radio activation buttons (e.g., buttons E5 and E6 as shown) displayed on touch sensitive screen TS is provided to facilitate an exclusive operation of operating section OS as an independent car radio latched to the holder. *See, Wendling* at column 8, lines 20-32. Also by example, an activation of activation element E1 as shown in FIG. 1 exclusively switches the operating section OS to a car telephone mode as shown in FIG. 4b whereby an interactive user screen F3 of telephone activation buttons (e.g., buttons E7-E9 as shown) displayed on touch sensitive screen TS is provided to facilitate an exclusive operation of operating section OS as an independent car telephone upon operation section OS be released from the holder via release button RB. *See, Wendling* at column 8, lines 20-32.

September 21, 2005
Case No. GP-301992 (2760/45)
Serial No.: 10/057,855
Filed: January 23, 2002
Page 12 of 25

A careful review of FIG. 3 of *Wendling* reveals that, when operating section OS is exclusively switched to the car radio mode via mode activation button E3, interactive user surface F2 of radio activation buttons as shown in FIG. 3 does not provide any telephone activation buttons for concurrently operating the operating section OS in the car telephone mode. Conversely, a careful review of FIG. 4b of *Wendling* reveals that, when operating section OS is exclusively switched to the car telephone mode via mode activation button E1, interactive user surface F3 of telephone activation buttons as shown in FIG. 4b does not provide any radio activation buttons for concurrently operating the operating section OS in the car radio mode.

Thus, to encompass the scope of independent claims 1, 12 and 18, the interactive surfaces F2 and F3 of *Wendling* would have to be modified to allow a concurrent operation of the operating section OS as both a car radio and a car telephone whereby the operation of the operating section OS as a car telephone would be dependent upon the operation of the operating section OS as a car radio that provides a command signal for activating a cellular programming mode of the operating section OS as a car telephone and that further provides a mobile phone identification number for activating an operations mode of the operating section OS as a car telephone. The Appellant respectfully asserts that such a modification of *Wendling* would inappropriately change the principle operation of *Wendling* directed to an independency of interactive user screens F2 and F3 to facilitate exclusive operations of operating section OS as a car radio or a car telephone,

September 21, 2005
Case No. GP-301992 (2760/45)
Serial No.: 10/057,855
Filed: January 23, 2002
Page 13 of 25

respectively, and would inappropriately render *Wendling* unsatisfactory for its intended purpose of having optimally configured user interactive surfaces F2 and F3. See, *Wendling* at column 3, line 21 to column 4, line 27.

September 21, 2005
Case No. GP-301992 (2760/45)
Serial No.: 10/057,855
Filed: January 23, 2002
Page 14 of 25

Obviousness. To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. See, MPEP §2143.

Group 1: Claims 1, 12 and 18. The Appellant respectfully traverses the obviousness rejection of independent claims 1, 12 and 18 directed to operating a telematics unit, because there is no suggestion or motive in view of the teachings of *Wendling* to modify *Wendling* in view of *Odinak* to yield the following limitations of claims 1, 12 and 18:

1. "activating a cellular programming mode in response to the command signal", "receiving a mobile phone identification number sent in response to a radio button activation", and "activating an operations mode in response to the received mobile phone identification number" as recited in independent claim 1;

September 21, 2005
Case No. GP-301992 (2760/45)
Serial No.: 10/057,855
Filed: January 23, 2002
Page 15 of 25

2. "computer program code to activate a cellular programming mode in response to the command signal", "computer program code to receive a mobile phone identification number sent in response to a radio button activation", and "computer program code to activate an operations mode in response to the received mobile phone identification number" as recited in independent claim 12; and

3. "means for activating a cellular programming mode in response to the command signal", "means for receiving a mobile phone identification number sent in response to a radio button activation", and "means for activating an operations mode in response to the received mobile phone identification number" as recited in independent claim 18.

Withdrawal of the rejection of independent claims 1, 12 and 18 under 35 U.S.C. §103(a) as being unpatentable over *Wendling* in view of *Odinak* is therefore respectfully requested.

September 21, 2005
Case No. GP-301992 (2760/45)
Serial No.: 10/057,855
Filed: January 23, 2002
Page 16 of 25

Group 2: Claims 2-6, 13 and 14. The Appellant respectfully traverses the obviousness rejection of dependent claims 2-6, 13 and 14 directed to depression of radio buttons in supporting providing the command signal and the mobile phone identification number, because there is no suggestion or motive in view of the teachings of *Wendling* to modify *Wendling* in view of *Odinak* to yield "wherein the command signal is sent in response to a depression of a predetermined radio button for a predetermined time period" as recited in dependent claims 2 and 13; "wherein the predetermined button is an eject button" as recited in dependent claim 3; "wherein the mobile phone identification number is sent in response to a sequence of radio button depressions" as recited in dependent claims 4 and 14; "wherein a predetermined radio button is depressed in combination with another predetermined radio button to provide a digit of the mobile phone identification number" as recited in dependent claim 5; and "wherein a predetermined radio button is depressed prior to the depression of another predetermined radio button to provide a digit of the mobile phone identification number" as recited in dependent claim 6.

Withdrawal of the rejection of claims 2, 3 and 13 under 35 U.S.C. §103(a) as being unpatentable over *Wendling* in view of *Odinak* and in further view *Cumming-Hill* is therefore respectfully requested, and a withdrawal of the rejection of claims 4-6 under 35 U.S.C. §103(a) as being unpatentable over *Wendling* in view of *Odinak* is therefore respectfully requested.

September 21, 2005
Case No. GP-301992 (2760/45)
Serial No.: 10/057,855
Filed: January 23, 2002
Page 17 of 25

Group 3: Claims 7-9, 16 and 19. The Appellant respectfully traverses the obviousness rejection of dependent claims 7-9, 16 and 19 directed to a confirmation signal, because there is no suggestion or motive in view of the teachings of *Wendling* to modify *Wendling* in view of *Odinak* to yield "sending a confirmation signal in response to receiving the command signal and activating the cellular programming mode" as recited in dependent claim 7; "wherein the confirmation signal comprises a progression tone" as recited in dependent claim 8; "wherein the confirmation signal comprises a digitized voice message" as recited in dependent claim 9; "computer program code to send a confirmation signal in response to receiving the command signal and activating the cellular programming mode" as recited in dependent claim 16; and "means for sending a confirmation signal in response to receiving the command signal and activating the cellular programming mode" as recited in dependent claim 19.

Withdrawal of the rejection of claims 7-9, 16 and 19 under 35 U.S.C. §103(a) as being unpatentable over *Wendling* in view of *Odinak* and in further view *Nagashima* is therefore respectfully requested.

September 21, 2005
Case No. GP-301992 (2760/45)
Serial No.: 10/057,855
Filed: January 23, 2002
Page 18 of 25

Group 4: Claims 11, 17 and 20. The Appellant respectfully traverses the obviousness rejection of dependent claims 11, 17 and 20 directed to a predetermined function of an operations mode of the telematics unit, because there is no suggestion or motive in view of the teachings of *Wendling* to modify *Wendling* in view of *Odinak* to yield "activating a predetermined function of the operations mode in response to a radio button activation" as recited in dependent claim 11; "computer program code to activate a predetermined function of the operations mode in response to a radio button activation" as recited in dependent claim 17; and "means for activating a predetermined function of the operations mode in response to a radio button activation" as recited in dependent claim 20.

Withdrawal of the rejection of claims 11, 17 and 20 under 35 U.S.C. §103(a) as being unparentable over *Wendling* in view of *Odinak* is therefore respectfully requested.

September 21, 2005
Case No. GP-301992 (2760/45)
Serial No.: 10/057,855
Filed: January 23, 2002
Page 19 of 25

Dated: September 21, 2005

Respectfully submitted,



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September 21, 2005
Case No. GP-301992 (2760/45)
Serial No.: 10/057,855
Filed: January 23, 2002
Page 20 of 25

CLAIMS APPENDIX

1. A method of operating a telematics unit in a mobile vehicle, comprising:
receiving a command signal sent in response to a radio button activation;
activating a cellular programming mode in response to the command
signal;
receiving a mobile phone identification number sent in response to a radio
button activation; and
activating an operations mode in response to the received mobile phone
identification number.
2. The method of claim 1 wherein the command signal is sent in response to
a depression of a predetermined radio button for a predetermined time period.
3. The method of claim 2 wherein the predetermined button is an eject
button.
4. The method of claim 1 wherein the mobile phone identification number is
sent in response to a sequence of radio button depressions.

September 21, 2005
Case No. GP-301992 (2760/45)
Serial No.: 10/057,855
Filed: January 23, 2002
Page 21 of 25

5. The method of claim 4 wherein a predetermined radio button is depressed in combination with another predetermined radio button to provide a digit of the mobile phone identification number.

6. The method of claim 4 wherein a predetermined radio button is depressed prior to the depression of another predetermined radio button to provide a digit of the mobile phone identification number.

7. The method of claim 1 further comprising:
sending a confirmation signal in response to receiving the command signal and activating the cellular programming mode.

8. The method of claim 7 wherein the confirmation signal comprises a progression tone.

9. The method of claim 7 wherein the confirmation signal comprises a digitized voice message.

September 21, 2005
Case No. GP-301992 (2760/45)
Serial No.: 10/057,855
Filed: January 23, 2002
Page 22 of 25

10. The method of claim 1 wherein the operations mode is selected from a group consisting of a confirmation mode, a call-ready mode, a call-origination mode, a system identification table update mode, a preferred roaming list update mode, a unit-ready mode, and a vehicle parameter adjustment mode.

11. The method of claim 1 further comprising:
activating a predetermined function of the operations mode in response to a radio button activation.

12. A computer usable medium including a program for operating a telematics unit in a mobile vehicle comprising:

computer program code to receive a command signal sent in response to a radio button activation;

computer program code to activate a cellular programming mode in response to the command signal;

computer program code to receive a mobile phone identification number sent in response to a radio button activation; and

computer program code to activate an operations mode in response to the received mobile phone identification number.

September 21, 2005
Case No. GP-301992 (2760/45)
Serial No.: 10/057,855
Filed: January 23, 2002
Page 23 of 25

13. The computer usable medium of claim 12 wherein the command signal is sent in response to a depression of a predetermined radio button for a predetermined time period.

14. The computer usable medium of claim 12 wherein the mobile phone identification number is sent in response to a sequence of radio button depressions.

15. The computer usable medium of claim 12 wherein the operations mode is selected from a group consisting of a confirmation mode, a call-ready mode, a call origination mode, a system identification table update mode, a preferred roaming list update mode, a unit-ready mode, and a vehicle parameter adjustment mode.

16. The computer usable medium of claim 12 further comprising:
computer program code to send a confirmation signal in response to receiving the command signal and activating the cellular programming mode.

17. The computer usable medium of claim 12 further comprising:
computer program code to activate a predetermined function of the operations mode in response to a radio button activation.

September 21, 2005
Case No. GP-301992 (2760/45)
Serial No.: 10/057,855
Filed: January 23, 2002
Page 24 of 25

18. A system for operating a telematics unit in a mobile vehicle comprising:
means for receiving a command signal sent in response to a radio button activation;
means for activating a cellular programming mode in response to the command signal;
means for receiving a mobile phone identification number sent in response to a radio button activation; and
means for activating an operations mode in response to the received mobile phone identification number.
19. The system of claim 18 further comprising:
means for sending a confirmation signal in response to receiving the command signal and activating the cellular programming mode.
20. The system of claim 18 further comprising:
means for activating a predetermined function of the operations mode in response to a radio button activation.

September 21, 2005
Case No. GP-301992 (2760/45)
Serial No.: 10/057,855
Filed: January 23, 2002
Page 25 of 25

EVIDENCE APPENDIX

None.

RELATED PROCEEDINGS APPENDIX

None.